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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF TECH VALLEY COMMUNICATIONS, INC.
 AND GFC COMMUNICATIONS, INC.

IMPLEMENTATION OF THE SUBSCRIBER
 CHANGES PROVISIONS OF THE
 TELECOMMUNICATIONS ACT OF 1996

CC DOCKET No. 94-129

POLICIES AND RULES CONCERNING
 UNAUTHORIZED CHANGES OF CONSUMERS'
 LONG DISTANCE CARRIERS

REQUEST FOR WAIVER

PETITION FOR WAIVER

GFC Communications, Inc. ("GFC"), and Tech Valley Communications, Inc. ("TVC") (collectively, the "Petitioners"), by their attorneys and pursuant to Section 1.3 of the Commission's Rules, respectfully petition the Commission to grant them a limited waiver of 47 C.F.R. Sections 64.1100-64.1190 as required to transfer the pre-subscribed customers of GFC to TVC without first obtaining each subscriber's authorization and verification.¹ In addition, Petitioners respectfully request expedited treatment of this petition, to the extent necessary, to allow Petitioners to effectuate the proposed transfer on or before April 1, 2000.

GFC is a competitive reseller of interexchange ("IXC") services that maintains its headquarters in Albany, New York. GFC resells interstate IXC services primarily in the state of New York.

TVC is a telecommunications carrier which is desirous of expanding the

¹ Pursuant to 47 C.F.R. § 64.1150, prior to submitting a preferred carrier change, carriers must either: (1) obtain the subscriber's written and signed authorization; (2) obtain confirmation from the subscriber via a toll-free number provided for the exclusive purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.

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telecommunications services it currently offers to include the resold IXC services now provided by GFC. Pursuant to a Purchase and Sale Agreement entered between GFC and TVC, TVC will acquire substantially all of GFC's assets used to provide telecommunications services, including its existing customer base.

Upon completion of the contemplated customer migration, TVC will provide interstate IXC services on a presubscription basis to the former customers of GFC. While technically the affected customers will be transferred from one telecommunications carrier to another, the transfer will be seamless to former GFC customers. The parties seek authority to transfer all of GFC's presubscribed interstate customers to TVC without obtaining new letters of authorization ("LOAs").

Affected customers will be fully informed of the change in carriers. GFC will send each customer a pre-migration letter that will describe the transfer of assets from GFC to TVC, inform the customer of the upcoming change in their long distance service provider, and reassure the customer that there will be no charges associated with this transfer and that there will be no change to the way he/she dials. The notice will further include a statement indicating that the customer has the option of changing its long distance service provider along with a toll-free number which the customer may call for assistance in this regard.

Once the transfer of assets is complete, TVC will include a notice with the first two monthly bills it sends out which will contain the same information provided in the pre-migration letter along with statements welcoming the customer to TVC and notifying the customer of services available from TVC. The notice will again include a statement indicating that the customer has the option of changing its long distance service provider along with a toll-free number which the customer may call for assistance in this regard.

Furthermore, TVC will maintain the rates currently charged by GFC for one-hundred twenty (120) days from the date the above-described transfer of assets is effective. By maintaining current rates for this one-hundred twenty day (120) time period, TVC will ensure a smooth transition for all affected customers.

Petitioners respectfully submit that the purposes of the Commission's LOA and verification rules would not be served by obtaining prior authorization and verification in order to switch the affected customers of GFC to TVC, and that the public interest is served by granting a waiver of those rules in these limited circumstances. Petitioners fear that "represubscription" would confuse customers. Customers, who do not understand the need to sign new forms, and fail to respond, could lose service altogether or pay potentially higher casual calling rates. Accordingly, Petitioners believe strongly that any potential benefits of obtaining new authorizations are outweighed by the potential detriments of such a program, and submit that all efforts will be taken to ensure that customers are not inconvenienced or harmed in any way. Indeed, Petitioners' goal is to be able to provide superior service and rates to affected customers as a result of the migration.

It is well-established that waiver of the Commission's Rules is appropriate if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.² The party requesting waiver must show that the underlying purpose of the rule would not be served or would be frustrated, or that unusual or unique circumstances cause application of the rule to be unfair, unduly burdensome or contrary to the public interest.

In the instant case, the special circumstances requiring a deviation from the Commission's Rules include the need to ensure a seamless transition of long distance service

² See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-1159 (D.C. Cir. 1969), cert. Denied, 409 U.S. 1027 (1972);

TECH VALLEY COMMUNICATIONS, INC.

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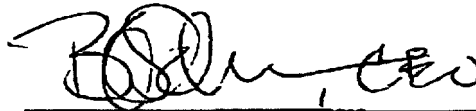
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Its Attorneys


STATE OF NEW YORK)
COUNTY OF ALBANY) SS:

BRIAN A. SCHAFFER, being duly sworn, deposes and says that deponent is the Chief Executive Officer of Tech Valley Communications, Inc, one of the corporations named in the papers filed within; that deponent has read the foregoing FCC Request for Waiver and knows the contents thereof; and that the same is true to deponent's own knowledge. Deponent is an officer of Tech Valley Communications, Inc., to wit, its Chief Executive Officer. The grounds for deponent's belief as to all matters not stated upon his own knowledge are investigations which deponent has caused to be made concerning the subject matter of this action, information acquired by deponent in the course of his duties, and information from the books and records of the corporation.



BRIAN A. SCHAFFER
CHIEF EXECUTIVE OFFICER

Sworn to before me this 18
day of February, 2000.


Notary Public

PATRICIA CEBRY
Notary Public, State of New York
Qualified in Albany County
Reg. No. 4922220
Commission Expires February 28, 2000

STATE OF NEW YORK)
COUNTY OF RENSSELAER) SS:

FRANK GIFFORD, being duly sworn, deposes and says that deponent is the ~~VICE-PRESIDENT~~ of GFC Communications, Inc. one of the corporations named in the papers filed within; that deponent has read the foregoing FCC Request for Waiver and knows the contents thereof; and that the same is true to deponent's own knowledge. Deponent is an officer of GFC Communications, Inc., to wit, its ~~VICE-PRESIDENT~~. The grounds for deponent's belief as to all matters not stated upon his own knowledge are investigations which deponent has caused to be made concerning the subject matter of this action, information acquired by deponent in the course of his duties, and information from the books and records of the corporation.

Frank J. Gifford
FRANK GIFFORD
VICE-PRESIDENT

Sworn to before me this 22
day of February, 2000.


Notary Public

KEITH C. COUNTRYMAN
Notary Public, State of New York
Qualified in Rensselaer County
Reg. No. 4637395
Commission Expires Nov. 30, 2001